

07 JUN 2000



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In re Application of :  
BONNERT, Timothy Peter :  
U.S. Application No.: 09/445,614 :  
Attorney's Docket No.: T1481 :  
For: HUMAN VANILLOID RECEPTOR-LIKE :  
RECEPTOR :

DECISION ON  
PETITION UNDER  
37 CFR 1.182

This decision is issued in response to the "Petition Under 37 CFR 1.182" filed via facsimile on 16 May 2000. Applicants have authorized a charge to Deposit Account No. 13-2755 for the applicable petition fee.

**BACKGROUND**

On 08 December 1998, applicant filed application no. GB 9827016.8 in Great Britain.

On 08 December 1999, applicant filed a "Transmittal Letter To The United States Designated/Elected Office (DO/EO/US) Concerning A Filing Under 35 U.S.C. 371" (Form PTO-1390) which included the authorization to charge Deposit Account No. 13-2755 \$1,594 (\$970 as the basic national fee and \$624 for inclusion of extra independent claims) and which was accompanied by, among other materials, a specification with 17 claims and an unexecuted declaration which claiming priority based on the Great Britain application. This filing was assigned United States application no. 09/445,614.

On 16 May 2000, applicant filed the "Petition Under 37 CFR 1.182" considered herein. In this petition, applicant asserts that the use of a Form PTO-1390 Transmittal Letter was an error, and that the submission was intended as a filing under 35 U.S.C. 111(a), not 35 U.S.C. 371.

**DISCUSSION**

There is no PCT application associated with the present United States application file; rather, the foreign application to which priority is claimed is simply a Great Britain patent application. Because there is no PCT application, there cannot be a national stage application under 35 U.S.C. 371. Thus, even though applicant used a Form PTO-1390 Transmittal Letter when filing this application, the application could not possibly be treated as a filing under 35 U.S.C. 371. Accordingly, applicant's present petition that the application be treated as a filing under 35 U.S.C. 111(a) is appropriately granted.

The application will be accorded a filing date of 08 December 1999, since the application papers as originally filed met the 35 U.S.C. 111(a) requirements for a specification, at least one claim, and the naming of the inventors.

As for fees, it is noted that applicant has been charged \$970 as the basic national fee for this application. Because this filing is to be treated as an application under 35 U.S.C. 111(a), the proper filing fee is \$690. Accordingly, applicant is entitled to a refund of \$280.

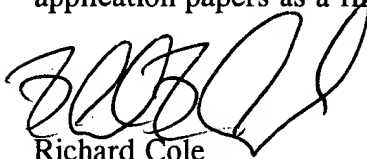
**CONCLUSION**

For the reasons above, the petition is **GRANTED**.

This application has been accepted as a U.S. national application filed under 35 U.S.C. 111(a) with a filing date of **08 December 1999**.

Deposit Account No. 13-2755 has been charged \$130 as the petition fee and has been credited with a refund of \$280 to adjust the \$970 basic national fee previously paid to the \$690 filing fee actually due.

This application is being forwarded to Applications Branch for treatment of the application papers as a filing under 35 U.S.C. 111(a) in accordance with this decision.



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